IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Crl.MC.No. 3187 of 2007()

AGAINST THE ORDER IN CC.93/2006 IN
ST.63/2005 of CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA

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PETITIONER/DE-FACTO COMPLAINANT / ACCUSED:

REGHU, AGED 46 YEARS
S/O.VASU,
IRIPPACHUVATTIL, MULADUPARA,
KUMBAZHA,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.V.SETHUNATH

RESPONDENTS/ACCUSED/COMPLAINANT/STATE:

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1. THE SUB INSPECTOR OF POLICE,
PATHANAMTHITTA POLICE STATION,

2. K.C.VARGHESE, KOTTAMANNIL HOUSE,
MYLADUPARA, KUMBAZHA,
PATHANAMTHITTA DISTRICT.

3. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM,

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/10/2007 ALONG WITH CRMC NO.3187/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.3187 & 3197 of 2007

Dated this the 17th day of October 2007

O R D E R

The petitioner is the accused in two prosecutions under Section 138 of the Negotiable Instruments Act. Cognizance has been taken in those cases as early as in 2005. They are pending before the court of the learned Chief Judicial Magistrate, Pathanamthitta. The petitioner had filed a complaint and on the basis of that compliant, an investigation was conducted by the police and a final report has been filed. In the said complaint, the petitioner had alleged inter alia that these two cheque leaves were stolen from the possession of the petitioner. Police, after investigation have filed a final report. Cognizance has been taken. The said case is pending before the very same court, that is learned Chief Judicial Magistrate, Pathanamthitta as C.C.No.93/2006. The petitioner has come to this court with a prayer that the trial in these two prosecutions under Section 138 of the Negotiable Instruments Act may be stayed till the disposal of C.C.No.93/2006.

2. What is the reason? On what principle or reason can such a request be sustained? I can understand the request that all the three cases must be disposed of simultaneously reckoning C.C.No.93/06 on the one hand and S.T.Nos.63 & 135/2005 on the other as cases in the nature of a case and counter cases. But the request for stay of proceedings in the 138 prosecutions till C.C.NO.93/06 does really surprise me. I am unable to find any justification for such a request. The same cannot obviously be accepted.

3. It is for the petitioners to move the learned Chief Judicial Magistrate for disposal of these three cases simultaneously, reckoning them as case and counter cases. Such request, if made, the learned Chief Judicial Magistrate must certainly consider on merits and pass appropriate orders. No further or better directions appear to be necessary.

4. These Criminal Miscellaneous Cases are in these circumstances dismissed with the above observations.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007